REMARKS

By this Amendment, claims 1-15, 17-23, 48-62, 64-70, and 95-100 are pending, in which claims 16 and 63 are canceled without prejudice or disclaimer, claims 1, 10, 17, 48, 57, 64, 95, and 96 are currently amended, and claims 97-100 are newly presented. No new matter is introduced.

The Office Action mailed December 24, 2008 rejected claims 1-3, 6-16, 19-22, 48-50, 53-63, 66-69, 95, and 96 under 35 U.S.C. § 103(a) as obvious based on *Robertson* (U.S. 6,269,369), rejected claims 17, 23, 64, and 70 under 35 U.S.C. § 103(a) as obvious based on *Robertson* in view of *Tsou et al.* (U.S. Pub. 2002/0184089), rejected claims 18 and 65 under 35 U.S.C. § 103(a) as obvious based on *Robertson* in view of *Young et al.* (U.S. 7,024,690), rejected claims 4 and 51 under 35 U.S.C. § 103(a) as obvious based on *Robertson* in view of *Bieganski et al.* (U.S. 6,412,012), and rejected claims 5 and 52 under 35 U.S.C. § 103(a) as obvious based on *Robertson* in view of *Spooner* (U.S. Pub. 2005/0034099).

In order to reduce issues for potential appeal, Applicants have amended independent claims 1, 48, 95, and 96. As amended, independent claim 1 recites, *inter alia*, "receiving data at a first hand-held device **from a second hand-held device via short-range communication**; determining, **at the first hand-held device**, a match between the data received at the first hand-held device and data associated with one or more other hand-held devices within a short-range communication range of the first hand-held device; [and] creating, **at the first hand-held device**, **a log entry in accordance with the match**." Independent claim 48 now recites, *inter alia*, "**[a] hand-held apparatus**, comprising . . . a processor . . . **configured to** . . . receive data **from a hand-held apparatus via short range communication**; determine a match between the received data and data associated with one or more other hand-held apparatuses within a short-

range communication range; [and] **create a log entry in accordance with the match**." Amended independent claim 95 now recites, *inter alia*, "**[a] hand-held apparatus**, comprising: hardware means for receiving data **from a second hand-held apparatus via short range communication**; **hardware means for** determining a match between the received data and data associated with one or more other hand-held apparatuses within a short-range communication range; [and] hardware means for **creating a log entry in accordance with the match**." As amended, independent claim 96 recites, *inter alia*, "**[a] hand-held apparatus**, comprising . . . a processor . . . wherein the processor, in accordance with the program code, **is configured to**: determine a match between **data received, via the short-range communications interface, from a second hand-held apparatus** and data associated with one or more other hand-held apparatuses within a short-range communication range, wherein the received data includes at least an identifier for data associated with the one or more other hand-held apparatuses within the short-range communication range; and **create a log entry in accordance with the match**."

By contrast, *Robertson* does not teach or suggest, "receiving data at a first hand-held device from a second hand-held device," much less receiving such data "via short-range communication." In fact, the applied reference unambiguously makes clear that users access a server 360, via the World Wide Web 360, utilizing a client computer 370 operating a web browser 382 or other software application residing in memory 374 that enables the users to display information **downloaded from server 330**, (Col. 4, lines 30-35). Even though, in certain embodiments, users may synchronize PIM databases 390 associated with client computers 370 with server database 340, this information is always exchanged between client computers 370 and server 330, i.e., from client computers 370 to server 330 or from server 330 to client computers 370, (Col. 15, lines 53-55). Accordingly, if any data is received at a client computer

370 of *Robertson*, that data is received from server 330 (which is not another hand-held device) and, moreover, is received via the World Wide Web (which is not via short range communication).

Further, Applicants submit that *Robertson* also fails to teach or suggest, "determining, **at the first hand-held device**, a match between the data received at the first hand-held device and data associated with one or more other hand-held devices within a short-range communication range of the first hand-held device." In response to Applicants' arguments dated October 20, 2008, the Examiner continues to assert that *Robertson* supposedly teaches the recited features, citing col. 13, lines 18-23, col. 14, lines 27-61, col. 16, and Appendix I of the written description, as well as FIGs. 8, 12, and 14, (*see, e.g.,* Office Action, page 3). The Examiner further argues that *Robertson* particularly recites, that *Robertson* "can also be used to synchronize the server database with a PIM database of the user and any contacts of the user whoe have the appropriate permissions,'" (*see* Office Action, page 11). That is, "[w]henever a second user changes any information in any data field of his data record, the information in that field is automatically updated in the information database of each first user whom he had given permission to view the information in that data field," (*Id.*). By relying on these disclosures, which Applicants respectfully note are merely provided by *Robertson* to summarize the entirety of the disclosure, the Examiner erroneously construes the applied art.

More specifically, the Examiner stretches the fact that since the server database 340 and PIM database 390 may be synchronized, then it is "indeed obvious that the PIM software **could perform** the matching functionality since Robertson teaches that a user's PIM database could have not only that user's information but also information of other users as well," (Office Action, page 12). The Examiner attempts to grant such functions to *Robertson* under the guise of "data

management" and "synchronization functions" of PIM software 392, (*see* Office Action, pages 3-4). It is submitted that the "data management" and "synchronization functions" do not include the claimed subject matter.

Data management is not expressly defined, but from the context of the reference, generally refers to data storage capabilities.

As for the synchronization functions, *Robertson* unambiguously states that, "a user is able to synchronize their user information and their PIM database 390 through an importatation/synchronization function **performed by the personal contact manager software 343**," (Col. 15, lines 46-52). It is noted, and is never taught otherwise, that *Robertson* states that "**server** computer system 330 runs **server software 342, including the networked-computer based personal contact manager 343** of the present invention, which interacts with client computers 370 and a user information database 340," (Col. 4, lines 34-38). *Robertson* also takes the time to specifically state that the "synchronization operation can be performed in either direction (**i.e., client to server or server to client**)," (Col. 15, lines 53-55) As such, the "**server** personal contact manager software 343 will then use the **web** server 342 to communicate with the PIM software 392 of the user's contacts, if applicable, and, in accordance with the permission scheme already described, [to] **synchronize the databases 390 in the contacts' PIMs**," (Col. 15, lines 54-59). Even though the scheme enables full synchronization between PIM database 390 and the server database 340, that is all the operation enables.

Namely, "a user A submits an address change from their client computer 370A" to the server 330, and "[i]n response to the update, the personal contact manager 343 **running on the server 330** updates user A's address information **in the server database 340** . . . and issues an update notification to the client computer 370B used by user B, who is a contact of user A," (Col.

16, lines 1-7). Assuming user B has a PIM database 390 that they want to synchronize **with the server database 340**, then "[i]n such a case PIM software 392 running on the client 370B performs the synchronization operation based on the user A address **update information provided by the server 330**," (Col. 16, lines 7-13). Thus, "[f]ollowing the synchronization operation, the PDA database 390 has the same information for user A as the server database 340," (Col. 16, lines 13-15). Clearly, PIM software 392, which runs on client 370B, only enables PIM database 390 and server database 340 to update information between these two respective entities, i.e., between a server and a client.

Applicants also note that *Robertson* makes it resoundingly clear, without any statement to the contrary, that the "database and communication operations necessary to perform the described functions **are controlled by the personal contact manager 343**," which runs on server 330, (Col. 6, lines 45-48). One of the functions controlled by personal contact manager 343 is "updat[ing] the database tables 350 when a user submits a new home address and then determin[ing] whether any of that user's contacts need to be notified of the change," (Col. 6, lines 49-52). Accordingly, "the personal contact manager 343 will issue the notifications via the web server software 342," (Col. 6, lines 52-53). *Robertson* then goes so far as to state that "[i]t should be assumed, unless a statement to the contrary is made, that all of the operations described herein which are aspects of the present invention are embodied by **the personal contact manager 343**," (Col. 6, lines 54-57). To this effect, the pseudocode provided in Appendix A, which the Examiner also attempts to rely upon for teaching "matching," (*see* Office Action, page 3), is also expressly disclosed as being "performed by the personal contact manager software 343 to display the group member list," (*See* Col. 8, lines 1-3). As such, if any matching operation is even performed, it is performed by personal contact manager 343 executed

via server 330 to display group member lists and, thereby, not via client computers 370 or PIM software 392. Thus, *Robertson* fails to teach, or even remotely suggest, "determining, at the first hand-held device, a match between the data received at the first hand-held device and data associated with one or more other hand-held devices within a short-range communication range of the first hand-held device."

Consequently, *Robertson* also fails to specifically teach, or remotely suggest, "creating, at the first hand-held device, a log entry in accordance with the match," given that the client computers 370 do not perform the matching function, nor the logging functionality. Again, the portion of *Robertson* that the Examiner relies upon, i.e., Appendix I, of cols. 19 and 20, relate to pseudocode "performed by the personal contact manager software 343 to enable a user to receive crossing paths notification," (Col. 13, lines 23-26). As such, if any log entry is established, it is created via server 330 and, thereby, not via client computer 370.

Moreover, the secondary references to *Tsou et al.*, *Young et al.*, *Bieganski et al.*, and *Spooner* do not cure the deficiencies within *Robertson*. The Office Action, on page 8, merely relies on *Tsou et al.* for supposedly teaching, "employing IEEE 802.15.1 for the short-range communications," as well as "an advertiser learning if the user complied with the recommendation." *Young et al.* is only relied upon for supposedly teaching "employing a one-way hash of a unique identifier associated with the second hand-held device in creating the log entry," (Office Action, page 9). *Bieganski et al.* is merely relied upon for supposedly teaching, "the identifier being an international standard book number," (Office Action, page 10). *Spooner* is only relied upon for supposedly teaching, "the identifier being an international mobile equipment identity identifier," (Office Action, page 10).

Thus, whether taken alone or in combination, and Applicants certainly do not agree that the requisite fact-based motivations have been established for combining the applied references, *Robertson*, *Tsou et al.*, *Young et al.*, *Bieganski et al.*, and *Spooner* fail to obviate the claimed subject matter. Applicants, therefore, submit that the imposed 35 U.S.C. § 103(a) rejections of claims 1, 48, 95, and 96, as well as claims 2-15, 17-23, 49-62, 64-70, depending correspondingly therefrom, are unsustainable and should be withdrawn. *See, e.g., Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044 (Fed. Cir. 1988).

Applicants also submit that new claims 97-100, correspondingly dependent upon claims 1, 48, 95, and 96, are not taught by the applied art for at least those reasons provided above. In this manner, claims 97-100 are also distinguishable on their own merit. Namely, claims 97 and 99 recite, *inter alia*, "transmitting, **to the second hand-held device via the short range communication**, information corresponding to the log entry." Claims 98 and 100 recite, *inter alia*, "transmit, **to the second hand-held device via the short range communication**, information corresponding to the log entry." Since *Robertson* teaches that information is to be exchanged between server 330 and client computers 370 and, thereby, not between various client computers 370, *Robertson* teaches away from the claimed subject matter.

Therefore, the present application overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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